

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

CHAD WILLIAM REED,)	
)	
Plaintiff,)	
)	
vs.)	No. CIV-16-461-C
)	
JASON BRYANT, et al.,)	
)	
Defendants.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff filed the present action pursuant to 42 U.S.C. § 1983. Consistent with the provisions of 28 U.S.C. § 636(b)(1)(B), this matter was referred to United States Magistrate Judge Gary M. Purcell. Judge Purcell entered a Report and Recommendation (“R&R”) on June 4, 2019, recommending Defendants’ Motion for Summary Judgment (Dkt. No. 115) be granted. Plaintiff has timely objected to the R&R.

The substantive facts and law are accurately set out in Judge Purcell’s R&R and there is no purpose to be served in repeating them. Two points raised in Plaintiff’s objection, though, merit brief discussion. First, regarding his retaliation claim against Defendants Curry and Bell, Plaintiff claims that the informal grievance process was made unavailable to him. Yet he still filed multiple Requests to Staff that were returned to him as untimely and failed to appeal those findings. The Court thus finds no reason to set aside the Magistrate Judge’s finding that Plaintiff failed to exhaust this claim.

Second, regarding his Due Process claim, Plaintiff objects to the Magistrate Judge’s application of the law of a federal district court case in lieu of, in his view, the clear law of

the Tenth Circuit. In the R&R, the Magistrate Judge noted that the Tenth Circuit has generally found that “Constitutional rights provided by the First Amendment are liberty interests under the Due Process Clause.” Reed v. Bryant, 719 F. App’x 771, 777 (10th Cir. 2017). The Magistrate Judge emphasized, though, that the Tenth Circuit’s discussion in that case remained general and was not in the religious diet context. Subsequent cases within the religious diet context have placed limits on this broad proposition—one being that a temporarily suspended religious diet does not implicate due process concerns. See Greer v. Dowling, No. CIV-14-708-M, 2017 WL 8222640 at *4 (W.D. Okla. June 22, 2017). Here, then, the Magistrate Judge did not contravene Tenth Circuit law—he simply made a distinction between the broad principles outlined by the Tenth Circuit and the specific circumstances of Plaintiff’s case. The Court further finds that the Magistrate Judge’s order is well-reasoned, and Plaintiff’s further objections fail to call into question its analysis.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge (Dkt. No. 138) and GRANTS Defendants Motion for Summary Judgment (Dkt. No. 115).

IT IS SO ORDERED this 20th day of August, 2019.


ROBIN J. CAUTHRON
United States District Judge